THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1363 of 2005

Between:

1 The Depot Manager, A.P.S.R.T.C, Mahabubabad Depot, Warangal District and others.

..... APPELLANTS

AND

Ch. Pulinder Reddy, S/o. Venkat Reddy E. 80397, Mahabubabad Depot, Warangal District,

.....RESPONDENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1363 of 2005

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JUDGMENT: (Per the Hon'ble Smt Justice T. Meena Kumari)

Challenge in this appeal is as to the correctness of the order rendered by a learned single Judge of this Court dated 09.03.2005 in W.P.No.15669 of 2002.

02. Facts relevant to resolve the controversy in this appeal are:

03. The respondent has been working as a driver in the respondents-Corporation. On 24.07.2001, he opted for voluntary retirement and in that regard, he filed an application. Subsequently, on 28.08.2001 he filed another application seeking to withdraw his earlier application dated 24.07.2001. In spite of the same, the 1st appellant passed the impugned order dated 01.09.2001 retiring him from service. Feeling aggrieved, the respondent preferred the writ petition.

04. Combating the allegations made in the writ petition, the appellants filed counter affidavit, wherein it has been stated that the respondent had submitted an application for voluntary retirement and requested them to settle his retirement benefits. Accordingly, his case was considered and proceedings were issued to that effect. After issuance of the retirement order, he submitted an application for settlement of retirement benefits only. But, the said application dated 28.08.2001 was taken over by the respondent without knowledge of the Record Tracer, and as such, he could not submit any revoking application for voluntary retirement. It is further contended that the respondent has already withdrawn all the retirement benefits to which

he is entitled to. Hence, the writ petition is not maintainable and liable to be dismissed.

05. After crystallizing the entire facts on record and after hearing the learned counsel, the learned single Judge allowed the writ petition and set aside the impugned order by directing the first appellant to re-consider the case of the respondent in view of the subsequent application dated 28.08.2001.

06. We have heard the learned counsel appearing on behalf of the parties.

07. Perused the entire material on record and the order impugned.

08. It is not in dispute that the respondent at first instance opted for voluntary retirement from service through his letter dated 24.07.2001.

After that, he submitted another application, dated 28.08.2001 seeking withdrawal of his earlier letter dated 24.7.2001.

09. But, the contention of the appellants is that without knowledge of the Record Tracer the application dated 28.08.2001 was taken over by the respondent and the said application is filed only for settlement of the retirement benefits. If that being the case, nothing prevents the appellants to produce the copy of the letter dated 28.8.2001 before this Court. However, a perusal of the copy of the letter dated 28.8.2001 annexed to the material papers, goes to show that the respondent requested for cancellation of the voluntary retirement.

In this background of the matter, we are of the view that the contention of the appellants that as if the respondent has submitted his subsequent representation only for the purpose of releasing the retirement benefits, is far from truth and therefore, the learned single Judge, is justified in directing the appellants to re consider the entire issue in view of the subsequent letter dated 28.8.2001 submitted by the respondent for withdrawal of the earlier application and pass appropriate orders in accordance with law. We see no merits in this appeal and the same is liable to be dismissed.

10. Resultantly, the appeal fails and is accordingly, dismissed.

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T.MEENA KUMARI, J

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P.LAKSHMANA REDDY, J

10.08.2005

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